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DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-039]

Countervailing Duty Investigation of Certain Amorphous Silica Fabric from the People's Republic of China: Preliminary Determination and Alignment of Final Determination with Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain amorphous silica fabric (silica fabric) from the People's Republic of China (the PRC). The period of investigation is January 1, 2015 through December 31, 2015. We invite interested parties to comment on this preliminary determination.

DATES: Effective Insert date of publication in the *Federal Register*.

FOR FURTHER INFORMATION CONTACT: Emily Maloof or John Corrigan, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-5649 or (202) 482-7438, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Investigation

The merchandise covered by this investigation is silica fabric from the PRC. For a complete description of the scope of this investigation, *see* Appendix II.

Scope Comments

In accordance with the preamble to the Department's regulations,¹ we set aside a period of time in our Initiation Notice for parties to raise issues regarding product coverage, and we encouraged all parties to submit comments within 20 calendar days of the signature date of that notice.²

We received several comments concerning the scope of the antidumping (AD) and countervailing duty (CVD) investigations of silica fabric from the PRC. We intend to issue our preliminary decision regarding the scope of the AD and CVD investigations in the preliminary determination of the companion AD investigation, which is due for signature on August 24, 2016. On March 13, 2016, Lewco Specialty Products, Inc. (Lewco) submitted a letter that was later rejected by the Department as it was improperly filed.³ We intend to issue our preliminary decision regarding the scope of the AD and CVD investigations in the preliminary determination of the companion AD investigation, which is due for signature on August 24, 2016.

Methodology

The Department is conducting this CVD investigation in accordance with section 701 of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we preliminarily determine that there is a subsidy, *i.e.*, a financial contribution by an "authority" that gives rise to a benefit to the recipient, and that the subsidy is specific.⁴ For a full description of the methodology underlying our preliminary conclusions, *see* the

¹ See Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

² See *Certain Amorphous Silica Fabric From the People's Republic of China: Initiation of Countervailing Duty Investigation*, 81 FR 8909 (February 23, 2016) (*Initiation Notice*).

³ See Memorandum to the File from John K. Drury, "Request to Take Action on Certain Barcodes," dated March 18, 2016.

⁴ See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

Preliminary Decision Memorandum.⁵ The Preliminary Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://trade.gov/enforcement>. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

The Department notes that, in making this preliminary determination, we relied, in part, on facts available and, because one or more respondents did not act to the best of their ability to respond to the Department's requests for information, we drew an adverse inference where appropriate in selecting from among the facts otherwise available.⁶ For further information, *see* "Use of Facts Otherwise Available and Adverse Inferences" in the Preliminary Decision Memorandum.

Alignment

As noted in the Preliminary Decision Memorandum, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), we are aligning the final CVD determination in this investigation with the final determination in the companion AD investigation of silica fabric from the PRC based on a request made by Petitioner.⁷ Consequently, the final CVD

⁵ See Memorandum to Paul Piquado, "Decision Memorandum for the Preliminary Affirmative Determination: Countervailing Duty Investigation of Certain Amorphous Silica Fabric from the People's Republic of China," dated June 27, 2016 (Preliminary Decision Memorandum).

⁶ See sections 776(a) and (b) of the Act.

⁷ Auburn Manufacturing, Inc. (AMI) (Petitioner); *see also* Letter from AMI, "Re: Certain Amorphous Silica Fabric from the People's Republic of China: Petitioner's Request for Postponement of Date for Final Countervailing Duty Determinations to Align to the Date of the Final Antidumping Determination," dated June 9, 2016.

determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than November 7, 2016, unless postponed.

Preliminary Determination and Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated an individual rate for each exporter/producer of the subject merchandise individually investigated. We preliminarily determine the countervailable subsidy rates to be:

| Exporter/Producer | Subsidy Rate (Percent) |
|---|-----------------------------------|
| ACIT (Pinghu) Inc. and ACIT (Shanghai) Inc. | 4.36 |
| Nanjing Tianyuan Fiberglass Material Co. Ltd. | 28.25 |
| Acmetex Co., Ltd.,* Beijing Great Pack Materials, Co. Ltd.,* Beijing Landingji Engineering Tech Co., Ltd.,* Changshu Yaoxing Fiberglass Insulation Products Co., Ltd.,* Changzhou Kingze Composite Materials Co., Ltd.,* Changzhou Utek Composite Co.,* Chengdu Chang Yuan Shun Co., Ltd.,* China Beihai Fiberglass Co., Ltd.,* China Yangzhou Guo Tai Fiberglass Co., Ltd.,* Chongqing Polycomp International Corp.,* Chongqing Yangkai Import & Export Trade Co., Ltd.,* Cixi Sunrise Sealing Material Co., Ltd.,* Fujian Minshan Fire-Fighting Co., Ltd.,* Grand Fiberglass Co., Ltd.* Haining Jiete Fiberglass Fabric Co., Ltd.,* Hebei Yuniu Fiberglass Manufacturing Co., Ltd.,* Hebei Yuyin Trade Co., Ltd.,* Hengshui Aohong International Trading Co., Ltd.,* Hitex Insulation (Ningbo) Co., Ltd.,* Mowco Industry Limited,* Nanjing Debeili New Materials Co., Ltd.,* Ningbo Fitow High Strength Composites Co., Ltd.,* Ningbo Universal Star Industry & Trade Limited,* Ningguo BST Thermal Protection Products Co., Ltd.,* | 104.10 |

| | |
|--|------|
| Qingdao Feelongda Industry & Trade Co., Ltd.,* Qingdao Shishuo Industry Co., Ltd.,* Rugao City Ouhua Composite Material Co., Ltd.,* Rugao Nebola Fiberglass Co., Ltd.,* Shanghai Bonthe Insulative Material Co., Ltd.,* Shanghai Horse Construction Co., Ltd.,* Shanghai Liankun Electronics Material Co., Ltd.,* Shanghai Suita Environmental Protection Technology Co., Ltd.,* Shangqui Huanyu Fiberglass Co., Ltd.,* Shengzhou Top-Tech New Material Co., Ltd.,* Shenzhen Songxin Silicone Products Co., Ltd.,* Taixing Chuanda Plastic Co., Ltd.,* Taixing Vichen Composite Material Co., Ltd.,* TaiZhou Xinxing Fiberglass Products Co., Ltd.,* Tenglong Sealing Products Manufactory Yuyao,* Texaspro (China) Company,* Wallean Industries Co., Ltd.,* Wuxi First Special-Type Fiberglass Co., Ltd.,* Wuxi Xingxiao Hi-Tech Material Co., Ltd.,* Yuyao Feida Insulation Sealing Factory,* Yuyao Tianyi Special Carbon Fiber Co., Ltd.,* Zibo Irvine Trading Co., Ltd.,* Zibo Yao Xing Fire-Resistant and Heat-Preservation Material Co., Ltd.,* Zibo Yuntai Furnace Technology Co., Ltd.* | |
| All-Others | 4.36 |

* Non-cooperative company to which an adverse facts available rate is being applied. *See* “Use of Facts Otherwise Available and Adverse Inferences,” section in the Preliminary Decision Memorandum.

In accordance with sections 703(d)(1)(B) and (d)(2) of the Act, we are directing U.S. Customs and Border Protection to suspend liquidation of all entries of silica fabric from the PRC that are entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the *Federal Register*, and to require a cash deposit for such entries of merchandise in the amounts indicated above.

Sections 703(d) and 705(c)(5)(A) of the Act state that, for companies not investigated, we determine an “all-others rate,” by weighting the subsidy rates of the individual company subsidy rate of each of the companies investigated by each company’s exports of subject merchandise to the United States excluding rates that are zero or *de minimis* or any rates determined entirely on the facts available. Notwithstanding the language of section 705(c)(5)(A)(i) of the Act, we have not calculated the “all-others” rate by weight-averaging the rates of the two individually investigated respondents, because the rate calculated for Nanjing Tianyuan was determined entirely on facts available. Therefore, for the “all-others” rate, we applied the rate calculated for ACIT Pinghu.

Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information submitted by the respondents prior to making our final determination.

Disclosure and Public Comment

The Department will disclose calculations performed for this preliminary determination to the parties within five days of the date of public announcement of this determination in accordance with 19 CFR 351.224(b). Case briefs or other written comments for all non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.⁸ A table of contents, list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes.

⁸ See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using ACCESS. An electronically filed request for a hearing must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.⁹ Requests should contain the party's name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a date and time to be determined. Parties will be notified of the date and time of any hearing. The hearing will be limited to issues raised in the respective briefs.¹⁰

International Trade Commission Notification

In accordance with section 703(f) of the Act, we will notify the International Trade Commission (ITC) of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Enforcement and Compliance.

⁹ See 19 CFR 351.310(c).

¹⁰ *Id.*

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: June 27, 2016

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
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 - A. Application of AFA: Non-Responsive Companies to the Q&V Questionnaire
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 - D. Application of AFA: Policy Loans to the Silica Fabric Industry
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- XI. Analysis of Programs
 - A. Programs Preliminarily Determined to Be Countervailable
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 - 1. Preferential Export Financing
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 - 3. Export Seller’s Credits
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 - 7. Provision of Fiberglass Yarn for LTAR
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 - 9. Income Tax Reduction for HNTEs
 - 10. Income Tax Reduction for R&D under the EITL

11. Income Tax Reduction/Exemption for HNTes for Geographic Location
12. Import Tariff and VAT Exemptions on Imported Equipment in Encouraged Industries
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15. GOC and Sub-Central Government Subsidies for Development of Famous Brands and China World Top Brands
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- XII. ITC Notification
- XIII. Disclosure and Public Comment
- XIV. Verification
- XV. Conclusion

Appendix II

Scope of the Investigation

The product covered by this investigation is woven (whether from yarns or rovings) industrial grade amorphous silica fabric, which contains a minimum of 90 percent silica (SiO_2) by nominal weight, and a nominal width in excess of 8 inches. The investigation covers industrial grade amorphous silica fabric regardless of other materials contained in the fabric, regardless of whether in roll form or cut-to-length, regardless of weight, width (except as noted above), or length. The investigation covers industrial grade amorphous silica fabric regardless of whether the product is approved by a standards testing body (such as being Factory Mutual (FM) Approved), or regardless of whether it meets any governmental specification.

Industrial grade amorphous silica fabric may be produced in various colors. The investigation covers industrial grade amorphous silica fabric regardless of whether the fabric is colored. Industrial grade amorphous silica fabric may be coated or treated with materials that include, but are not limited to, oils, vermiculite, acrylic latex compound, silicone, aluminized polyester (Mylar®) film, pressure-sensitive adhesive, or other coatings and treatments. The investigation covers industrial grade amorphous silica fabric regardless of whether the fabric is coated or treated, and regardless of coating or treatment weight as a percentage of total product weight. Industrial grade amorphous silica fabric may be heat-cleaned. The investigation covers industrial grade amorphous silica fabric regardless of whether the fabric is heat-cleaned.

Industrial grade amorphous silica fabric may be imported in rolls or may be cut-to-length and then further fabricated to make welding curtains, welding blankets, welding pads, fire blankets, fire pads, or fire screens. Regardless of the name, all industrial grade amorphous silica fabric that has been further cut-to-length or cut-to-width or further finished by finishing the edges and/or adding grommets, is included within the scope of this investigation.

Subject merchandise also includes (1) any industrial grade amorphous silica fabric that has been converted into industrial grade amorphous silica fabric in China from fiberglass cloth produced in a third country; and (2) any industrial grade amorphous silica fabric that has been further processed in a third country prior to export to the United States, including but not limited to treating, coating, slitting, cutting to length, cutting to width, finishing the edges, adding grommets, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope industrial grade amorphous silica fabric.

Excluded from the scope of the investigation is amorphous silica fabric that is subjected to controlled shrinkage, which is also called “pre-shrunk” or “aerospace grade” amorphous silica fabric. In order to be excluded as a pre-shrunk or aerospace grade amorphous silica fabric, the amorphous silica fabric must meet the following exclusion criteria: (1) the amorphous silica fabric must contain a minimum of 98 percent silica (SiO_2) by nominal weight; (2) the amorphous silica fabric must have an areal shrinkage of 4 percent or less; (3) the amorphous silica fabric must contain no coatings or treatments; and (4) the amorphous silica fabric must be white in

color. For purposes of this scope, “areal shrinkage” refers to the extent to which a specimen of amorphous silica fabric shrinks while subjected to heating at 1800 degrees F for 30 minutes.¹¹

Also excluded from the scope are amorphous silica fabric rope and tubing (or sleeving). Amorphous silica fabric rope is a knitted or braided product made from amorphous silica yarns. Silica tubing (or sleeving) is braided into a hollow sleeve from amorphous silica yarns.

The subject imports are normally classified in subheadings 7019.59.4021, 7019.59.4096, 7019.59.9021, and 7019.59.9096 of the Harmonized Tariff Schedule of the United States (HTSUS), but may also enter under HTSUS subheadings 7019.40.4030, 7019.40.4060, 7019.40.9030, 7019.40.9060, 7019.51.9010, 7019.51.9090, 7019.52.9010, 7019.52.9021, 7019.52.9096 and 7019.90.1000. HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of this investigation is dispositive.

¹¹ Areal shrinkage is expressed as the following percentage:

$$\frac{\text{Fired Area, cm}^2 - \text{Initial Area, cm}^2}{\text{Initial Area, cm}^2} \times 100 = \text{Areal Shrinkage, \%}$$

